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CLERK, U.S. DISTRICT COURT  
SOUTHERN DISTRICT OF CALIFORNIA

BY *PR* DEPUTY

**UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF CALIFORNIA**

DAVID R. AYALA,  
Petitioner,  
vs.  
UNITED STATES OF AMERICA,  
Respondent.

CASE NO. 06CV1474-H

**ORDER DISMISSING  
SUCCESSIVE PETITION**

On July 20, 2006, Petitioner David Ayala ("Petitioner") filed a request under 28 U.S.C. §§ 2241 or 2255, which the Court construes as a petition for writ of habeas corpus pursuant to 28 U.S.C. § 2255. Petitioner was sentenced on September 23, 1991 to 262 months in prison with a three-year term of supervised release. Petitioner filed a petition for writ of habeas corpus under 28 U.S.C. § 2255 on August 9, 1996. (Case No. 90cr1181, Doc. No. 372.) That petition was denied on November 12, 1996. (*Id.*, Doc. No. 387.) Under 28 U.S.C. § 2244(b), where a prior application for a writ of habeas corpus has been determined by a circuit or district judge of the United States, the petitioner must obtain permission from the court of appeals in the Circuit where the district court resides, before the district court may consider the application. 28 U.S.C. § 2244(b)(3)(A). Section 2244 acts as a gatekeeping provision and imposes stringent restrictions on the filing of second or successive petitions. *See Felker v. Turpin*, 518 U.S. 651, 662-64 (1996). Thus, Petitioner must seek permission from the Court of

1 Appeals for the Ninth Circuit before this Court may entertain his successive petition.  
2 Accordingly, the Court **DISMISSES** the petition for writ of habeas corpus pursuant to  
3 28 U.S.C. § 2255.

4 IT IS SO ORDERED.

5 Dated: 9/21/06

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7 MARILYN L. HUFF, District Judge  
8 UNITED STATES DISTRICT COURT  
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22 **COPIES TO:**

23 David Raoul Ayala  
23680-198

24 SPRCTI  
Taft Correctional Institution  
25 P.O. Box. 7001  
Taft, CA 93268-7001

26 U.S. Attorney's Office, Civil Division  
27 U.S. Attorney's Office, Southern District of California  
880 Front Street, Suite 6253  
28 San Diego, CA 92101